

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS NUMBER: 04-0366**  
**Adjusted Gross Income Tax**  
**For the Tax Period 2002**

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**ISSUE**

**1. Adjusted Gross Tax-Credit for Estimated Taxes Paid**

**Authority:** IC 6-8.1-5-1(b), IC 6-3-2-1(a), IC 6-3-4-4.1 (c).

The taxpayer protests the assessment of adjusted gross income tax on certain receipts.

**STATEMENT OF FACTS**

The taxpayer and his former wife were divorced in January 2003. For tax year 2002, they filed their Indiana adjusted gross income tax returns individually. They had filed jointly in prior years. Estimated income tax payments for 2002 were made on joint vouchers. All vouchers were signed by the taxpayer. The total amount of estimated payments for 2002 plus the refund for tax year 2001 applied to 2002 equals \$2,080. When filing his 2002 Indiana adjusted gross income tax return, the taxpayer claimed all of the estimated payments as payments towards his tax liability. The taxpayer's ex-wife claimed \$712 of the 2002 estimated tax payments and 2001 refund as a credit against her taxes due. The Indiana Department of Revenue (department) adjusted the taxpayer's income tax liability to reflect the credit taken against the former wife's income tax liability. Subsequently the department assessed the additional income tax, penalty, and interest against the taxpayer. The taxpayer protested this assessment and a hearing was held. This Letter of Findings results.

**1. Adjusted Gross Income Tax-Credit for Estimated Taxes Paid**

**Discussion**

All department assessments are prima facie evidence that the taxes are owed by the taxpayer who has the burden of proving that the assessment is incorrect. IC 6-8-1-5-1(b). Indiana imposes the adjusted gross income tax on Indiana residents. IC 6-3-2-1(a).

The taxpayer paid estimated Indiana adjusted gross income taxes during 2002 pursuant to the following provisions of IC 6-3-4-4.1 (c):

Every individual who has gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable year.

Throughout their marriage, the taxpayer and his former wife individually paid the Indiana adjusted gross income taxes on their respective incomes. The taxpayer made estimated payments throughout the tax year 2002 based upon his retirement income. He made the estimated tax payments with checks on his personal account and use of the 2001 Indiana adjusted gross income tax refund. Since the refund was due to additional withholding from his former wife's salary, he reimbursed his ex-wife for the amount of the 2001 refund that was applied to his estimated tax payments for the tax year 2002. The taxpayer's ex-wife was employed during the tax period 2002 and Indiana taxes were withheld from her income.

The taxpayer was the party with income that was not subject to withholding. The taxpayer offered substantial evidence that he actually made all the 2002 estimated tax payments from his own funds. Therefore, the taxpayer should receive the credit for the subject estimated payments to apply to his 2002 Indiana adjusted gross income tax liability.

### **Finding**

The taxpayer's protest is sustained.